

Remarks

Claims 1-24 have been rejection under 35 U.S.C. §102(e) as being anticipated by Downs (US 6,226,618). This rejection is respectfully traversed for the following reasons.

Claim 1 is patentable over Downs, since claim 1 recites a recording medium having digital data stored thereon, the digital data including, in part, reproduction control information used to determine a plurality of content data to be reproduced, wherein the reproduction control information includes reproduction sequence information which determines a reproduction order of the plurality of content data while a data recording and reproducing device performs normal reproduction, and reproduction frequency parameters each of which determines a reproduction frequency of the plurality of content data while the data recording and reproducing device performs special reproduction, wherein the reproduction frequency parameters include a reproduction frequency direct factor, which is directly used as a reproduction frequency at special reproduction, and a reproduction frequency indirect factor which is used to indirectly determine a reproduction frequency at special reproduction, and wherein the reproduction frequency indirect factor is able to be dynamically and automatically updated at a time of reproduction or recording of said content data, as recited in claim 1.

Downs discloses an electronic control delivery system for electronic commerce that can be used to securely transmit data, including music video games, movies and print media, to an end user via a network. The main components of the system are the end users 109 who are consumers interested in purchasing data, content providers 101 (for example, a music company or publishing company) who own the rights to the data, electronic stores 103 who are authorized to sell and distribute the data of the content providers 101 to the users 109, and clearinghouses 105 who provide licensing authorization and perform record keeping of all of the transactions of the data from the content providers 101 to the users 109 via the electronic stores 103.

In order to transfer the data securely to the users 109, the data is encrypted so as to only be decryptable with a data decrypting key, the data decrypting key being encrypted by a first public key. The encrypted data is accessible by one of the users 109 who has purchased the data from one of the electronic stores 103 and the encrypted data decrypting key is transferred to one of the clearinghouses 105 which has a first private key which corresponds to the first public key. The clearinghouse 105

decrypts the encrypted data decrypting key and then reencrypts the data decrypting key using a second public key and transfers the newly encrypted data decrypting key to the user 109 who has a second private key corresponding to the second public key. Therefore, the user 109 can decrypt the data decrypting key and use the data decrypting key to further decrypt the purchased data. (See column 8, line 55 - column 11, line 55, column 3, lines 4-56, column 1, lines 50-56, and Figure 5).

Based on the above description, it is apparent that the system of Downs is concerned with securely providing data to a user by using public/private key encryption. Further, the data is described as being any of print media, films, games, and music. (See column 1, lines 50-56). However, Downs fails to disclose or suggest any other characteristics of the data. As a result, Downs necessarily fails to disclose or suggest digital data including (1) reproduction control information used to determine a plurality of content data to be reproduced, the reproduction control information including reproduction sequence information which determines a reproduction order of the plurality of content data while a data recording and reproducing device performs normal reproduction, and (2) reproduction frequency parameters each of which determines a reproduction frequency of the plurality of content data while the data recording and reproducing device performs special reproduction, and the reproduction frequency parameters including a reproduction frequency direct factor, which is directly used as a reproduction frequency at special reproduction, and a reproduction frequency indirect factor which is used to indirectly determine a reproduction frequency at special reproduction, wherein the reproduction frequency indirect factor is able to be dynamically and automatically updated at a time of reproduction or recording of said content data.

As a result, it is submitted that Downs fails to disclose or suggest the present invention of claim 1.

Further, it is noted that the rejection of claim 1 relies on the disclosure of column 3, lines 40-56 of Downs as containing all of the above-mentioned features of the claim. However, as discussed above, this section of Downs only discusses a method by which data is securely transmitted to a user by encryption. As a result, if the Examiner maintains the rejection, it is respectfully requested that the Examiner explain how column 3, lines 40-56 of Downs, or any other section of Downs for that matter, discloses or suggests the features of claim 1.

Claim 2 is also patentable over Downs for reasons in addition to those discussed above with regard to claim 1, since claim 2 recites that the reproduction frequency parameters are updated according to information relevant to the plurality of content data selected at normal reproduction. Downs fails to disclose or suggest this feature of claim 2.

As discussed above with regard to claim 1, Downs is related to a system for securely transmitting data to a use with encryption and fails to disclose or suggest reproduction frequency parameters used to determine content data to be reproduced. As a result, Downs necessarily fails to disclose or suggest the updating of the reproduction frequency parameters according to information relevant to the plurality of content data selected at normal reproduction. With regard to column 6, line 65 - column 7, line 10 of Downs, relied upon in the rejection of claim 2, this section discloses that licensing and usage of the data are used to manage the rights of a user and to combat piracy. However, this section appears to be in no way related to updating reproduction frequency parameters according to information relevant to the plurality of content data selected at normal reproduction.

As a result, it is submitted that Downs fails to disclose or suggest the present invention of claim 2.

Claims 3-5 are also patentable over Downs for reasons in addition to those discussed above with regard to claim 1, since claims 3-5 recite that: (1) the attribute data of the content data includes information about a date and time of when the plurality of content data was recorded; (2) the attribute data of the content data includes information about a date and time of when the plurality of content data was last reproduced; and (3) the attribute data of the content data includes information about a number of times the plurality of content data has been reproduced, respectively. Downs fails to disclose or suggest any of these features.

As discussed above with regard to claim 1, Downs is related to a system for securely transmitting data to a use with encryption and fails to disclose or suggest attribute data. Therefore, Downs necessarily fails to disclose or suggest the attribute data as recited in claims 3-5.

With regard to column 8, lines 7-15 of Downs, which section is relied upon to reject claims 3 and 4, this section discloses that the clearinghouses 105 keep track of all the encryption keys that are exchanged for the metering of licensing authorization and the original conditions for use.

However, this section of Downs fails to disclose or suggest that the clearinghouse 105 keeps track of a date and time of recordation of the data or a date and time of last reproduction of the data.

With regard to column 10, lines 15-18 of Downs, which section is relied upon to reject claim 5, this section discloses that usage conditions can include business offers, such as data purchase price, pay-per-listen price, copy authorization and target device types. While this section does disclose a pay-per-listen price, it does not disclose or suggest attribute data including information about a number of times a plurality of content data has been reproduced.

As a result, it is submitted that Downs fails to disclose or suggest the present invention as recited in claim 3-5.

Claim 6 is also patentable over Downs for reasons in addition to those discussed above with regard to claim 1, since claim 6 recites, in part, a determination part operable to read the reproduction control information from the recording medium, and generate information used to determine which of the plurality of content data is to be reproduced based on one of the reproduction sequence information and the reproduction frequency parameters included in the read reproduction control information; and a selection part operable to select which of the plurality of content data is to be reproduced based on the information generated by the determination part. Downs fails to disclose or suggest a determination part and a selection part according to claim 6.

As discussed above, Downs fails to disclose or suggest reproduction control information and reproduction frequency parameters as recited in claim 1. Therefore, Downs necessarily fails to disclose or suggest a determination part that reads the reproduction control information and generates information used to determine which of the plurality of content data is to be reproduced based on one of the reproduction sequence information and the reproduction frequency parameters. Further, Downs also necessarily fails to disclose or suggest a selection part that selects which of the plurality of content data is to be reproduced based on the information generated by the determination part. With regard to column 3, lines 40-56, the section of Downs relied upon as disclosing these limitations, this section describes a data encryption method and provides no disclosure or suggestion of a determination part and a selection part as recited in claim 6.

As for claim 15, it is patentable over Downs for the same reasons as set forth above in support of claim 1. That is, claim 15, like above claim 1, recites, in part, reproduction control information used to determine a plurality of content data to be reproduced, wherein the reproduction control

information includes reproduction sequence information which determines a reproduction order of the plurality of content data while a data recording and reproducing device performs normal reproduction, and reproduction frequency parameters each of which determines a reproduction frequency of the plurality of content data while the data recording and reproducing device performs special reproduction, the reproduction frequency parameters being updatable, wherein the reproduction frequency parameters include attribute data of the content data, and wherein the reproduction frequency of the content data is derived from the attribute data, which features are not disclosed or suggested in Downs.

Claim 13 is patentable over Downs, since claim 13 recites a reproduction control information collection system having, in part, a user system operable to transmit user reproduction control information indicative of the user's preference of content data over a network; an information provider system operable to receive the user reproduction control information which came from the user system, and transmit, over the network, the user's reproduction control information together with an ID uniquely identifying the user to the content merchandiser system; in response to the reproduction control information and the ID provided by the information provider system, the content merchandiser system operable to issue a password uniquely corresponding to the ID, and transmit the password to the information provider system over the network; the information provider system is operable to transmit the password and the ID provided by the content merchandiser system to the user system over the network; user system operable to present the ID and the password provided by the information provider system to the content merchandiser system over the network, and ask for the bonus. Downs fails to disclose or suggest a user system, an information provider system and a content merchandiser system as recited in claim 13.

As discussed above with regard to claim 1, Downs discloses an electronic control delivery system for electronic commerce that can be used to securely transmit data from a content provider 101 to an end user 109 via a network. In order to transfer the data securely to the users 109, the data is encrypted so as to only be decryptable with a data decrypting key, the data decrypting key being encrypted by a first public key. The encrypted data is accessible by one of the users 109 who has purchased the data from one of the electronic stores 103 and the encrypted data decrypting key is transferred to one of the clearinghouses 105 which has a first private key which corresponds to the first public key. The clearinghouse 105 decrypts the encrypted data decrypting key and then

reencrypts the data decrypting key using a second public key and transfers the newly encrypted data decrypting key to the user 109 who has a second private key corresponding to the second public key. Therefore, the user 109 can decrypt the data decrypting key and use the data decrypting key to further decrypt the purchased data. (See column 8, line 55 - column 11, line 55, column 3, lines 4-56, column 1, lines 50-56, and Figure 5).

Based on the above discussion, it is apparent that Downs is concerned with securely transmitting data by using public and private key encryption and fails to disclose or suggest that the user 109 transmits user reproduction control information indicative of the user's preference of content data over a network. Downs also fails to disclose or suggest that the content provider 101 receives the user reproduction control information which came from the user 109, and transmits, over the network, the user's reproduction control information together with an ID uniquely identifying the user 109 to the electronic store 103. Further, Downs fails to disclose or suggest that the electronic store 103 issues a password uniquely corresponding to the ID, and transmits the password to the content provider 101 over the network and that the content provider transmits the password and ID to user 109, whereby the user 109 can present the password and ID to the electronic stores 103 to receive a bonus. Since Downs fails to disclose or suggest any of these features of claim 13, it is apparent that Downs necessarily fails to disclose or suggest the present invention as recited in claim 13.

Further, it is noted that the rejection of claim 13 relies on the disclosure of column 3, lines 40-56 of Downs as containing all of the above-mentioned features of the claim. However, as discussed above, this section of Downs only discusses a method by which data is securely transmitted to a user by encryption. As a result, if the Examiner maintains the rejection, it is respectfully requested that the Examiner explain how column 3, lines 40-56 of Downs, or any other section of Downs for that matter, discloses or suggests the features of claim 13.

As for claim 24, it is patentable over Downs for similar reasons as set forth above in support of claim 13. That is, claim 24, like above claim 13 recites, in part, transmitting, using a user system, user reproduction control information indicative of the user's preference of content data over a network; receiving, using an information provider system, the user reproduction control information which came from the user system, and transmitting, over the network, the user reproduction control information together with an ID uniquely identifying the user to a content merchandiser system; in response to the reproduction control information and the ID provided by the information provider

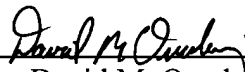
system, issuing, using the content merchandiser system, a password uniquely corresponding to the ID, and transmitting the password to the information provider system over the network; transmitting, using the information provider system, the password and the ID provided by the content merchandiser system to the user system over the network; presenting, using the user system, the ID and the password provided by the information provider system to the content merchandiser system over the network, and asking for the bonus, which features are not disclosed or suggested in Downs.

Because of the above mentioned distinctions, it is believed clear that claims 1-24 are not anticipated by Downs. Furthermore, it is submitted that the distinctions are such that a person having ordinary skill in the art at the time of invention would not have been motivated to modify Downs or to make any combination of the references of record in such a manner as to result in, or otherwise render obvious, the present invention as recited in claims 1-24. Therefore, it is submitted that claims 1-24 are clearly allowable over the prior art of record.

In view of the above remarks, it is submitted that the present application is now in condition for allowance. The Examiner is invited to contact the undersigned by telephone if it is felt that there are issues remaining which must be resolved before allowance of the application.

Respectfully submitted,

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